IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

Crl.Rev.Pet.No. 1076 of 2007()

CRA.139/2005 of ADDL. SESSIONS COURT (ADHOC), PATHANAMTHITTA
CC.1000/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA

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REVN. PETITIONER: APPELLANT/ACCUSED

C.N.KUMAR, MODERN DRUG HOUSE,
SANKARAMANGALAM BUILDING, THIRUVALLA.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS: COMPLAINANT/STATE

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1. POTHEN THOMAS, SANKARA MANGALAM,
PUNNAKUNNAM MURI, KUTTAPUZHA VILLAGE,
THIRUVALLA.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.1076 of 2007

Dated this the 12th day of March, 2007

ORDER

Revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of four months and to pay a sum of Rs.2,00,000/- as compensation to the complainant vide Section 353(3) of Crl.P.C. and in default, to undergo simple imprisonment for two months.

2. The contention of the revision petitioner is that only a blank cheque has been issued and that the statutory notice has not been served. I find that PW1, the complainant, has testified with respect to the execution of the cheque and the evidence of PW1 stands not discredited. No contra evidence has been adduced. So far as sending of the statutory notice, the complainant has produced the postal receipt and the returned cover. It is testified by PW1 that the notice has been sent in the correct address which is sufficient compliance of the statutory provision vide Section 138 of the Negotiable Instruments Act.

I find that no reason to deviate from the concurrent findings of the court below.

3. Considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.2,00,000/- to the complainant. The rest of the sentence is confirmed. Revision petitioner is granted five months' time from today onwards to pay the amount of compensation. Revision petitioner shall appear before the Judicial First Class Magistrate Court-Thiruvalla on 14.8.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl